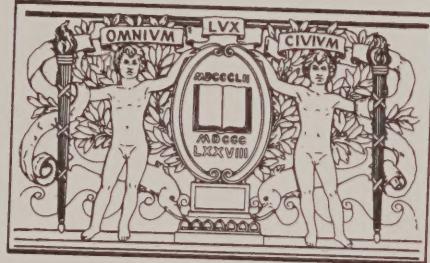


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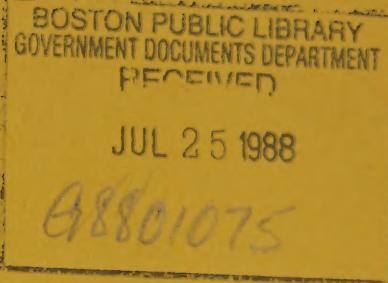
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ECONOMIC DEVELOPMENT MECHANISMS IN MASSACHUSETTS

Economic Opportunities Department
Action for Boston Community Development

TOOLS FOR GROWTH:

Economic Development Mechanisms in Massachusetts

A Study Conducted by

Action for Boston Community Development

August 1974

Robert M. Coard

Executive Director

Through the Economic Opportunities Department

Claude G. Lancome

Director of Economic Opportunities

Introduction

Action for Boston Community Development, Boston's official anti-poverty agency, has a deep and abiding interest in the health of the economy of the Boston metropolitan area. ABCD's Manpower programs have been widely praised and, yet, their success depends ultimately on a growing economy in the area they serve. ABCD's business development efforts, with a long history of aggressively seeking opportunities for those interested in starting or expanding businesses, likewise depend on a good economic climate. A stagnant economy means fewer jobs for everyone, but particularly for recent graduates of programs designed to create new opportunities for people who previously were considered unemployable or employable only in the lowest paying, most menial jobs. A nongrowth economy also means tight markets and tight credit for start-ups, which usually require risk lending.

Pursuant to this concern, ABCD set out to take a look at the government mechanisms available to encourage economic growth. The study quickly became an investigation of state as well as local mechanisms for three reasons. First, the economic climate of the Boston metropolitan area depends significantly on the climate in the state as a whole. Second, many of the mechanisms available for the Boston metropolitan area are state mechanisms. Third, given the reasonably substantial resources committed to this study, ABCD concluded that there would be a more significant return on investment if other groups throughout the state which shared a strong interest in economic development could benefit from the study.

There was one other important reason for conducting this study. While the discussion of economic development for Massachusetts has grown much more intense, it has not always appeared equally enlightened. It was felt that a contribution to the factual and analytical bases of the discussion would be a significant one. Accordingly, this study has two basic purposes. It seeks to inform those not familiar with economic development in Massachusetts about the basic tools which presently exist. For those more knowledgeable in the field, it seeks to add to the ongoing deliberations by the presentation of thoughtful analysis and by the raising of relevant questions.

**Robert M. Coard
Executive Director**

**Claude G. Lancome
Director of Economic
Opportunities**

Acknowledgements

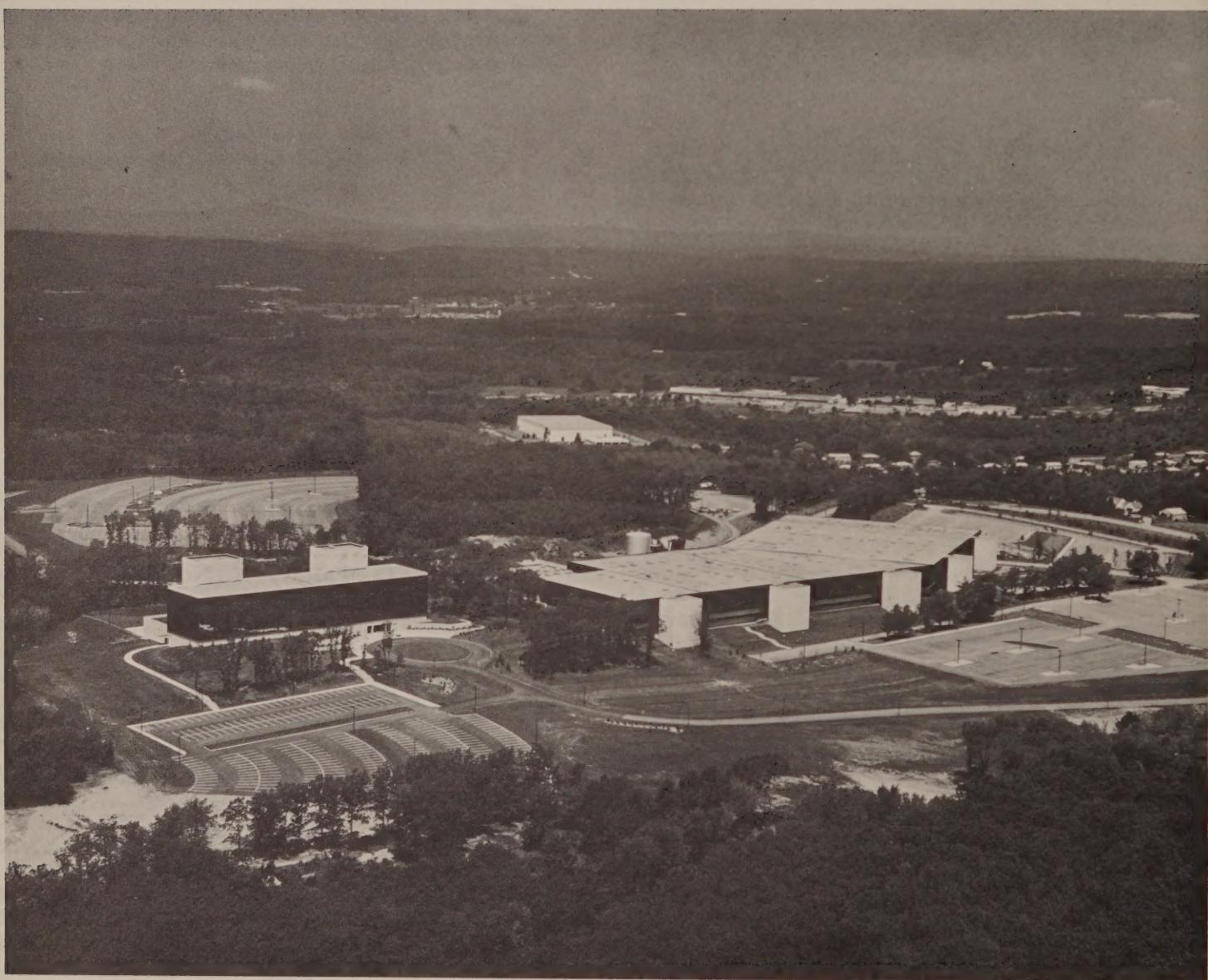
This study was conducted by the Department of Economic Opportunities and authored by its Director. However, a substantial amount of credit must go to the five research assistants who did much of the basic research. Their interest and diligence contributed substantially to whatever success this study enjoys. In alphabetical order, the research assistants were William Cooper, Philip Hunt, Bernard LaLayette, Richard Mariner and Richard Reese.

It is also important to acknowledge with deep gratitude the strong support for this study given by ABCD's Executive Director, Robert M. Coard. His interest in and willingness to tackle difficult issues such as this one contribute much to the vitality and success of Action for Boston Community Development.

Claude G. Lancome
Director of Economic Opportunities

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Local Development Agencies

Industrial Development Finance Authorities

Statutory Scheme

A municipality may, under certain circumstances, create an Authority which is empowered to issue revenue bonds in connection with the construction of facilities to be used by a corporation engaged primarily in an industrial enterprise, manufacturing or research and development, or of facilities used for pollution control or waste disposal.

To create an Authority, the City Council, with the approval of the Mayor (City Manager) in a city, or a town meeting in a town, must vote that unemployment exists, or is likely in the municipality, or that protection against such unemployment in the future is necessary; and that unemployment or the threat of it or protection against future unemployment can be achieved by attracting new industry into the municipality through one or more industrial development projects financed by the Authority. Two or more municipalities may vote to consolidate their authorities or to form a consolidated authority, provided that each municipality takes the vote just described.

The Board of Directors of the Authority is to consist of five members appointed for terms of five years. One member of the Board must be an expert on real estate, another must be an expert on finance and a third must be an expert on local government.

The Directors must reside in the municipality in which the Authority operates. They must not be employed by or have any financial interest in any tenants of the Authority. They may, however, have an appointed or elected job in the municipal government.

The Directors may hire an Executive Director and any other employees they believe necessary. They may also hire lawyers, accountants, consultants and any other agents they feel are necessary. The compensation of the employees and agents is to be apportioned among the Authority's projects and is to be treated as a current expense of those projects.

The Authority is authorized to buy, hold and lease as lessee real and personal property and to sell, mortgage and lease as lessor such property. The Authority may construct or rehabilitate facilities and subsequently maintain them. It may make contracts of any kind, borrow money, issue bonds, encumber the proceeds from any lease as security for such bonds and pursue all remedies against debtors or lessees who are in default on obligations to the Authority. The Authority may not, however, take any property by eminent domain.

A lease for a facility built by the Authority must be for a term of not more than 50 years. The rent must be

sufficient to pay for the interest and principal of the bonds issued in connection with the construction of the facility and the current expenses incurred in the planning and construction of the project. The lease must also provide for payments to the Authority for, or direct payments by the tenant of all expenses necessary to maintain the project, and of all tax assessments on the tenant's interest in the project. The lease may include an option to purchase, but if it does, the payment specified for the exercise of the option must be at least sufficient to cover the cost of the interest and principal of any obligations still outstanding and any current expenses incurred in connection with that project. If the payment exceeds the amount necessary to cover these costs, the excess is to be paid over to the municipality.

Bonds issued by the Authority shall not constitute an obligation of or a pledge of the faith and credit of the municipality which established the Authority, unless the City Council and Mayor in a City, or the Selectmen in a town, vote that the bonds shall be general obligation bonds, which constitute a pledge of the faith and credit of the municipality. Unless such a vote is taken, the bondholders are to be paid solely from the revenues from the sale or lease of the project in connection with which the bonds are issued.

Before the Authority can float a bond issue, it must get approval from the municipality by which it was established, and a Certificate of Necessity and Convenience from the Department of Commerce and Development, upon recommendation of the State Industrial Finance Board. The City Council and the Mayor in a city, or the Selectmen in a town, must vote to approve the project, the estimated cost of the project and the financing of the project by a bond issue.

The State Industrial Finance Board is made up of the Commissioner of Commerce and Development and eight other members appointed to four year terms by the Governor. One member is to represent the Associated Industries of Massachusetts, another the State AFL-CIO, another the real estate profession, another the financial community, another must be a certified public accountant, another must be a professional engineer, another must be an expert in industrial development and another must be an expert in local government.

The sole power of the State Industrial Finance Board is to review applications for Certificates of Convenience and Necessity in connection with proposed bond issues by Industrial Development Financing Authorities and to make recommendations as to the granting of such Certificates. A Certificate cannot be issued without a favorable recommendation from the Board.

An application for a Certificate must contain whatever information the State Industrial Finance Board requires and must be accompanied by the trust indenture securing the bonds, the resolution of the Authority authorizing the bond issue and the lease of the facility to be constructed.

The application is reviewed by the State Industrial Finance Board and must be given a favorable rating if the Board finds that the proposed tenant is responsible; that the terms of the lease are "reasonable and proper;"

that the provisions of the lease spelling out the rights of the Authority and the tenant with respect to disposition of the project when it is completely paid for are "in the public interest;" that the trust indenture fully protects the public interest; that the cost per job created is reasonable and is in line with comparable facilities; that increased demand on public facilities and services will be satisfactorily accommodated; that the project is of sufficient magnitude to have a positive impact on the Massachusetts economy; that the bonds, trust agreement and lease conform to the requirements of this Statute; that a project involving rehabilitation contains sufficient improvement in the condition of the facility that it is comparable to new construction; that the rental payments are sufficient to meet all obligations; and, that to the extent possible, the project has been located in a low income area of the municipality with a view to creating increased employment opportunities for residents of such area.

The Board is to consult with local and regional planning agencies to ensure that the project is consistent with any applicable master plans.

The State Industrial Finance Board must make a recommendation within 20 days, exclusive of Sundays and holidays, of the application's submission. If the recommendation is unfavorable, the Board must state its reasons for disapproval and must afford the Authority an opportunity to resubmit its application amended so as to meet the Board's objections. If the Board makes a favorable recommendation, it may attach conditions to its recommendation; for example, that the contract for construction of the facility be competitively let. The Board may not, however, regulate the contracting activity of the tenant.

When the State Industrial Finance Board transmits a favorable recommendation to the Department of Commerce and Development, the Department must forthwith issue a Certificate incorporating any conditions imposed by the Board.

The municipality which established the Authority may appropriate money to the Authority to pay for organizational and operating expenses not attributable

to any particular project. The municipality may transfer title to the Authority, with or without consideration, of any land which it owns, but the transfer cannot be in connection with a specific project. The municipality may appropriate money to the Authority for planning and other preliminary expenses incurred by the Authority in connection with a specific project. In that instance, the Authority must pay back that money from project revenues.

Real and personal property owned by the Authority is not taxable. Neither is income derived by the Authority from such property. However, when such property is leased by a profit-making organization, the land and buildings are taxable to the lessee at the same rate and in the same manner as if the lessee owned the property, with two exceptions. First, tax liens attach to the leasehold interest and not to the property itself, and therefore, foreclosure for failure to pay taxes results in sale of the leasehold and not sale of the property. Second, if the property is leased to a 121A Corporation, the Corporation pays taxes according to the provisions of Chapter 121A rather than this Statute.

The Authority may finance the construction of waste disposal facilities in the same way as it is authorized to finance industrial facilities, with certain exceptions.

The City Council and Mayor in a city, or the Selectmen in a town, must vote that waste disposal facilities are necessary in the municipality; otherwise, the Authority is authorized only to construct waste disposal facilities as they may be incidental to the construction of industrial facilities. The vote on waste disposal facilities must be separate from the one on industrial facilities.

When considering an application for a Certificate of Convenience and Necessity in connection with the construction of a waste disposal facility, the State Industrial Finance Board need not make findings with respect to the reasonable relationship between the number of jobs created and the cost of the project, the impact of the project on the state's economy and the feasibility of locating the project in a low income area.

The Board must find, after consultation with the appropriate state agency, that the project will result in a



"substantial public benefit" and that the project is consistent with existing state plans relating to the conservation of natural resources. In the case of solid waste, the appropriate agency is the Department of Public Works, and, in the case of other kinds of waste, the appropriate agency is the Department of Natural Resources.

The Authority may finance the construction of pollution control facilities in the same way as it is authorized to finance industrial facilities, with certain exceptions.

The State Industrial Finance Board, when considering an application for a Certificate of Convenience and Necessity in connection with the construction of a pollution control facility, need not make findings with respect to the reasonable relation between the number of jobs created and the cost of the project, the impact of the project on the state's economy, the magnitude of rehabilitation and the feasibility of locating the project in a low income area. The Board must find that the project will reduce unemployment or the likelihood of unemployment, the project will result in a "substantial public benefit" and that, after consultation with the appropriate agency, the project is consistent with the goal of controlling pollution. With respect to water pollution, the appropriate agency is the Division of Water Pollution Control of the Department of Natural Resources, and, in the case of air pollution, the appropriate individual is the Commissioner of Public Health.

fees. There is also the more permanent benefit of stimulating goodwill among the bank and the industrial applicant, not to mention the benefit accruing to the local economy from the bank's more active and judicious interest in the development effort.

Uncertainty over the stability and direction of the economy is causing Massachusetts banks to become increasingly more averse to accepting bond issues with maturities of over 10 years. (Although this Statute provides for bond issues with maturities of up to 50 years, the longest to date has been 25 years, with the average falling between 10 and 15 years.) The placement effort and expense for these issues increases as the Department is forced to market the issues outside the state where less conservative banking is available. Pennsylvania is a favorite target for placement of these issues and the Mid-Western States are now indicating an interest also.

The financing authority approach to economic development, even when functioning optimally, has an important structural defect. The successful marketing of the revenue bonds of a particular project requires that the prospective tenant, whose rent payments will be used to repay the bondholders, have an extremely good credit rating so that purchasers of the bonds will have confidence that their investment will be repaid plus an appropriate return. Companies with such good credit ratings, however, can get financing on the private market at competitive rates, sometimes even at better rates, and can get it more expeditiously. This means that newer, smaller businesses, which usually need the financing assistance the most, cannot take advantage of the terms offered by a financing authority. This limits the opportunity for growth of new companies, new industries and, ultimately, the Massachusetts economy. The solution of this problem appears to be a mortgage guarantee program by which a state agency would guarantee the mortgages (or leases for tenants of financing authorities) of these companies with less than the best credit rating. The Constitutional Prohibition against the state pledging its credit on behalf of private parties raises some problems as to how such a guarantee program can be implemented, but these problems should be addressed because such a program is needed.

Industrial Development Finance Authorities are encountering additional difficulties. The requirement for an Environmental Impact Statement and accompanying review has held up applications for an appreciable period of time.

The individual authorities and the program in general are only as good as the people appointed to administer them. Marlborough was fortunate to have as its Authority's Chairman the former City Mayor and father of the present Mayor. Certainly his efforts and knowledge of municipal affairs played a substantial part in the success Marlborough enjoyed with its Authority. Leominster, whose Chairman is also President of the Chamber of Commerce in the City, also realized a healthy return on its efforts with two issues totalling \$2.5 million in less

Analysis

There have been 21 bond issues in 11 communities since the enactment of the law authorizing the establishment of Industrial Development Finance Authorities. Chart 1 breaks these issues down by individual issue. Chart 2 shows activity by municipality. As the charts indicate, these issues have resulted in the creation of 4,788 jobs at an average investment of \$8,960 per job.

The local authority and industrial applicant are "walked-through" the marketing and sale of the bonds by the Department of Commerce and Development, usually by the Director of the Bureau of Commercial and Industrial Development, who expedites the placement and underwriting of the issue. An attempt is made in every case to get local banks or commercial lending institutions to take the issues in order to obviate the need for more expensive public placement and underwriting

Chart 1
IDFA BOND ISSUE SUMMARY
BY CORPORATION

MUNICIPALITY	COMPANY	DATE	NUMBER OF JOBS	VALUE OF ISSUE \$ MILLION	CAPITAL INVESTMENT PER JOB
Marlborough	RCA	3/14/68	2,000	12.0	\$ 6,000
Marlborough	Stop & Shop	11/25/68	250	10.0	\$40,000
Marlborough	Whitehead Metals	12/2/68	50	1.0	\$20,000
Marlborough	Koehler Manuf'g	6/30/69	35	.6	\$17,143
Marlborough	Houghton & Richards	11/13/69	11	.175	\$15,909
Marlborough	S. C. Clayton	1/11/71	50	1.0	\$20,000
Westfield	Columbia Manuf'g	8/29/68	200	1.5	\$ 7,500
Hudson	Major Mach'y	3/10/70	50	.35	\$ 7,000
Fall River	O'Day Corp.	7/2/70	150	.995	\$ 6,633
Brockton	Automatic Radio	10/27/70	150	.8	\$ 5,333
Brockton	Vulcan Corp.	10/27/70	300	1.0	\$ 3,333
Mansfield	Hoerner-Waldorf	1/18/71	130	3.5	\$26,923
Mansfield	Sun Chemical	6/12/72	42	.45	\$10,714
Walpole	Bird-Johnson	6/12/72	75	.5	\$ 6,666
Walpole	Bird-Johnson	4/9/73	105	.48	\$ 4,571
Framingham	Bose Corp.	12/12/72	300	2.1	\$ 7,000
Dartmouth	Kay-Windsor (V.F.)	3/12/73	350	2.4	\$ 6,857
Hopkinton	Valpey-Fisher	4/23/73	40	.4	\$10,000
Hopkinton	SMD Industries	6/28/73	150	1.15	\$ 7,667
Leominster	Universal Rundle		200	1.5	\$ 7,500
Leominster	Eastern Air Devices		150	1.0	\$ 6,667
11 Municipalities	20 Corporations	21 Issues	4,788	42.9	\$ 8,960

Average Issue Value \$2.043 Million

Chart 2 ISSUES BY YEAR
[Leominster Included]

YEAR	NUMBER OF ISSUES	AMOUNT \$MILLION	NUMBER OF JOBS	NUMBER OF MUNICIPALITIES	CAPITAL INVESTMENT PER JOB
1968	4	24.5	2,500	2	\$ 9,800
1969	2	.775	46	1	16,848
1970	4	3.145	650	3	4,838
1971	2	4.5	180	2	25,000
1972	3	3.05	417	3	7,314
1973	6	6.93	995	4	6,965
	21	\$42.9	4,788		

ISSUES BY COMMUNITY

COMMUNITY	NUMBER OF ISSUES	AMOUNT	NUMBER OF JOBS	CAPITAL INVESTMENT PER JOB
Marlborough	6	\$24.775	2396	\$10,340
Mansfield	2	3.95	172	22,965
Leominster	2	2.5	350	7,143
Dartmouth	1	2.4	350	6,857
Framingham	1	2.1	300	7,000
Brockton	2	1.8	450	4,000
Hopkinton	2	1.55	190	8,158
Westfield	1	1.5	200	7,500
Fall River	1	.995	150	6,633
Walpole	2	.98	180	5,444
Hudson	1	.35	50	7,000
	21	42.9	4788	

than a month of each other. Other municipalities tended to be successful when their Authorities' members were also the active members of the local Industrial Development Commission -- the promotional arm of the local industrial development program. An Authority is not permitted, under statute, to solicit "tenants" under the program (that is the function of the Development Commission.) While this does not serve as conclusive evidence to permit a blanket generalization about the calibre or background of the members, it can be assumed that it makes good sense to "load" an Authority with people closely attuned to the business and political climate of the municipality.

The requirement of an Environmental Impact Statement and, in some localities, the lack of sophistication of Authority Board members, has resulted in a 3 month average processing time for bond issues from the filing of an application for a Certificate of Convenience and Necessity to the ultimate sale of the bonds and receipt of the funds. This delay has caused a number of firms to cancel their plans for revenue bond financing and to go elsewhere for funding, and, in some cases, to locate their facility somewhere else. Financing delays and the resulting opportunity costs are too big a price for some firms to afford.

A further problem arises from U.S. Internal Revenue Service rulings which, in effect, limit revenue bond issues the interest of which is tax exempt to issues of \$5,000,000 or less. The Internal Revenue Code says that the interest on revenue bonds is taxable if a "major portion" (25% or more) of the proceeds are to be used for a business and the repayment of the bonds is secured by an interest in property to be used by the business.

There are exceptions to this rule. Bond issues the proceeds of which are used for a normal function of a government agency or of a nonprofit agency are exempt. Bond issues "substantially all" (75% or more) of the proceeds of which are used for the construction of housing, sports facilities, convention facilities, airports, docks, mass commuting facilities, storage facilities, parking facilities, water supply facilities, solid waste disposal facilities and pollution control facilities are tax exempt, provided the facilities serve the general public. Note the last two types of exempt facilities are authorized facilities for financing through a Finance Authority.

Bond issues in which "substantially all" of the proceeds are used for industrial parks are also exempt, but the proceeds may only be used for infrastructure (e.g., a sewage system) and not for buildings. The park must be for more than one business, and it must be subject to laws governing site planning.

So-called "small issues" -- those issues of up to \$1,000,000 or \$5,000,000, at the issuer's election -- are also exempt. If the \$1,000,000 limit is used, then when the limit is exceeded by the sum of the outstanding balances of the current issue plus any previous or subsequent "small issues" used for the same company in the same municipality, the current issue and any other issue involved lose their exemptions. If the \$5,000,000 limit is used, then when the limit is exceeded by the sum of the outstanding balances of the current issue plus any other

capital expenditures, privately or publicly financed, by the same company in the same municipality during the period extending from three years prior to three years after the current issue, the exemption is lost on the current issue and any others outstanding during that period.

Facilities which are built in order to support or facilitate the operation of an exempt facility can exceed 25% of the amount of the issue and still leave the issue exempt, provided the supporting facility is "functionally related and subordinate to" the main, tax exempt facility. An example might be an access road to a stadium open to the general public and financed through an exempt issue.

Of considerable importance is the fact that up to 25% of any otherwise exempt issue can be used for any lawful purpose, and the issue will remain exempt. Two examples will illustrate the importance of this provision. First, up to 25% of a "small issue" can be used for working capital and/or inventory by the tenant company. Second, a \$6,000,000 issue to build a factory is not exempt because it exceeds the \$5,000,000 limit for small issues. However, if the plant is financed at the same cost as part of a \$25,000,000 issue to build an airport, the entire issue will be exempt because building an airport is an exempt purpose, and the cost of the factory is less than 25% of the amount of the exempt issue.

In analyzing the effectiveness of Industrial Development Finance Authorities, and, indeed, any of the other agencies and programs discussed here, it is important to keep in mind that locational decisions will be made by business executives according to factors which they regard as most important to them. The effectiveness of government programs designed to attract new businesses depends on their ability to satisfy these factors. A recent U.S. Commerce Department survey of businessmen showed the following composite ranking (Individual industries may well have different rankings but this ranking represents an interindustry compilation).

1. Availability of Labor
2. Proximity to Market
3. Transportation
4. Sites and Buildings
5. Financing programs
6. Proximity to materials
7. Taxes
8. Water
9. Power and utilities
10. Government attitude

Note that an Industrial Development Finance Authority can only affect the fourth and fifth most important factors. This is significant in terms of how much an Authority can be expected to accomplish.

It is suggested that as other agencies and programs are considered, this interindustry composite ranking of locational factors be kept in mind when considering what can reasonably be expected of these agencies and programs.

Economic Development and Industrial Corporation

Statutory Scheme

A municipality is authorized, under certain circumstances, to establish an Economic Development and Industrial Corporation to carry out economic development projects within economic development areas pursuant to an economic development plan.

To be eligible to create a Corporation, a municipality must be in an area designated by the U.S. Department of Labor as one of "substantial unemployment," or the municipality may be designated as eligible by the Secretary of Communities and Development, if he finds that the municipality would meet the criteria of "substantial unemployment" were statistics for that municipality alone available. For a town to be eligible under any circumstances, the Secretary must find, in addition to "substantial unemployment," that the Corporation will be a part of a comprehensive development effort; that there is a significant demand for industrial land within the town; that industrial land assembly within the town cannot be done competitively with surrounding municipalities because of a shortage of industrial land or because of restrictive zoning ordinances; and, that the town has no Redevelopment Authority, or the Authority is unable to assemble the industrial land.

In order to establish a Corporation, the City Council, with the approval of the Mayor (City Manager), in the case of a city, and a town meeting in the case of a town, must vote that the municipality needs a Corporation because of present unemployment or a threat of future unemployment and lack of business opportunity and that these problems can be met through economic development projects carried out by the corporation.

The Board of the Corporation is to be made up of seven members, one of whom is to be an expert in industrial development, one in finance, one in real estate, one in municipal government and one of whom shall be a representative of low-income citizens chosen from a list of three names submitted by the Community Action Agency serving the municipality or, if there is no Community Action Agency, submitted by the Department of Community Affairs. The Directors serve for staggered terms of three years. The Directors are appointed by the "municipality" (see analysis).

The Corporation is authorized to hire whatever employees and agents it deems necessary to carry out its functions. It is also authorized to seek and accept loans from government agencies for projects and to accept grants from whatever sources; to issue revenue bonds

payable solely from revenues from economic development projects, except that the "municipality" (see analysis) may place its full faith and credit behind the corporation; to issue other forms of corporate indebtedness, such as debentures; to provide technical assistance to businesses; to prepare plans, or have plans prepared, for economic development projects; to finance pollution control facilities in the same manner as economic development projects; to designate, with the approval of the "municipality" (see analysis), economic development areas; to clear and make improvements on land acquired by the Corporation and to construct or rehabilitate, or to contract for the construction or rehabilitation of, facilities on the acquired land; to contract with the municipality for the provision or modification of streets and other public improvements; to buy, hold, lease as lessee, sell or lease as lessor any property, real or personal; to make loans on real estate or personal property, such loans to be secured by mortgages including purchase money mortgages, and to foreclose on such mortgages when they are in default; to manage any of the Corporation's projects or to enter into management contracts; and to act as a 121A Corporation.

The Corporation is authorized to use the power of eminent domain, under the provisions of the Eminent Domain Statute, to carry out an economic development project or to provide appropriate place for relocating residences or businesses. To exercise eminent domain, the Corporation must hold a public hearing, and then must obtain, in the case of a City, a two-thirds favorable vote by the City Council and approval by the Mayor, or in the case of a town, a two-thirds favorable vote by a town meeting. The advice of the Department of Commerce and Development must be obtained by the municipality. If the exercise of eminent domain or any other action needed to carry out an economic development plan necessitates any relocation, the Corporation must pay the reasonable costs of all relocatees up to a limit of \$25,000 per relocatee.

In order to undertake an economic development project, the Corporation must first hold a public hearing on the economic development plan of which the project is a part. Notice of the hearing must be sent to all persons and organizations which have requested notice in writing; to the Department of Commerce and Development, the Secretary of Communities and Development and those municipal and state agencies which the Corporation believes would be interested in the plan; to the Senators and Representatives whose districts are in the economic development area; and every community organization which receives public funds and whose area of responsibility includes all or part of the economic development area.

The Corporation must submit a copy of the plan to the municipality's planning agency. When submitted for approval, the plan must contain a provision requiring every business located in the economic development area covered by the plan to make a reasonable effort, during the first 40 years after the plan's approval, to give preference in hiring to residents of the municipality. The plan must be accompanied by a report on the plan by the

municipal planning agency, by an explanation of how each project included in the plan will be financed and by a comprehensive plan for any relocation necessitated by any of the projects. The plan must then get a favorable two-thirds vote by the City Council and the approval of the Mayor in the case of a City, or a two-thirds favorable vote by a town meeting in the case of a town. If a project is not begun within seven years after the plan of which it is a part is approved, the approval lapses.

The real and personal property of the Corporation is not subject to taxation. The municipality may, however, assess an annual charge against the Corporation in lieu of taxes. This annual payment by the Corporation shall not exceed an amount equal to the current tax rate applied to the average assessed valuation minus abatements of the property for the three years prior to acquisition by the Corporation. Alternatively, the Corporation may enter into a voluntary agreement with the municipality to make payments in lieu of taxes, in which case there is no limit on the amount of such payments. Property sold or leased by the Corporation is taxable to the buyer or lessee in the same manner and to the same extent as that buyer or tenant would otherwise pay taxes, except that a buyer or lessee which is a 121A Corporation is taxable according to the provisions of that Chapter.

The Corporation may issue debentures to provide working capital and for other purposes not associated with any one particular project. The Corporation cannot have more than \$5,000,000 of debentures outstanding at any one time unless specifically authorized by the Department of Commerce and Development and the Secretary of Communities and Development. The debentures do not constitute a debt of the municipality nor are they a pledge of the full faith and credit of the municipality unless specifically authorized by the municipality. The debentures are repayable only out of the net assets of the Corporation, and the interest on the debentures are payable only out of the Corporation's net earnings.

The municipality may appropriate or borrow money for use by the Corporation including payment of part of the costs of acquisition, development and operation associated with a particular project.

The bonds issued by the Corporation shall be revenue bonds payable solely from project revenues, unless the "municipality" pledges its full faith and credit to the Corporation. The bonds must be clearly labeled as to whether they are revenue bonds or obligations of the municipality. The bonds are authorized investments for public officers and agencies of the Commonwealth, insurance companies, trust companies, banks, investment companies and personal fiduciaries authorized to make investments.

An Economic Development and Industrial Corporation for the City of Boston was created by a statute passed a year before the one just described. The statutes are substantially the same, the chief differences being that the City of Boston does not need the advice or approval of the Department of Commerce and Development or of the Secretary of Communities and Development for any actions, and the decisions to be made by the

"municipality" is spelled out in every instance as a vote by the City Council and approval by the Mayor.

Analysis

At various points the Economic Development and Industrial Corporation Statute refers to the "municipality" making a decision with respect to one matter or another. The statute does not define in more specific terms what governmental bodies are to be involved in these decisions. It appears that, in the case of a City, the decisions are to be made by vote of the City Council with approval by the Mayor, and, in the case of a town, by the Board of Selectmen. This interpretation rests on the decision-making process in the Industrial Development Finance Authority Statute, on the decision-making process used in the earlier Boston Economic Development and Industrial Corporation Statute, and on the argument that the matters to be decided are of the kind that is commonly decided in the manner suggested.

The Economic Development and Industrial Corporation statute is a sophisticated version of the concept embodied in the Industrial Development Finance Authority Statute. There are several important differences between the Corporation and the Authority, but the basic idea of stimulating construction and/or rehabilitation of industrial and commercial facilities through making available financing at below market rates remains the key feature.

The Corporation is designed to do sophisticated economic development planning. It must designate an economic development area. There must be an economic development plan for that area. Individual projects must fit into the plan. An operation of this kind clearly requires full time staff. Further, it will predictably incur a number of costs on an ongoing basis that are not attributable to any particular project. Thus, apart from grants, the Corporation is authorized to borrow money by issuing debentures - specifically for operating capital and other general purposes. Apart from grants, the Authority can only pay such costs in the form of current expenses of particular projects payable solely from project revenues.

One of the major reasons for companies leaving inner city locations for the suburbs is the inability of companies to get sufficient land for a new, expanded facility or for expansion at the present location. The power of eminent domain, when used as part of a well planned development effort, substantially reduces the land assembly problem.



State Agencies

Department of Commerce and Development

Statutory Scheme

The Department of Commerce and Development is the agency with primary responsibility for economic development in Massachusetts.

The primary purposes of the Department as set forth by the statute which established it are:

1) Promoting, developing, and expanding the economy, the commerce, the industry, the cultural, educational and geographic advantages of the Commonwealth, and the full utilization of the skills and potentials of all its citizens; and

2) Preparing and perfecting functional plans for the economic development of the Commonwealth and assisting through advice and counsel the coordination of activities of public and private agencies affecting such plans.

To these ends, the Chapter mandates a structure substantially as described below. The functions of the divisions and bureaus are not specifically set out in the Statute.

Analysis

The operating structure of the Department appears to be somewhat different than the one mandated by the Statute. The two most significant differences between the operational scheme and the statutory one is the grouping of the Bureau of Research and Statistics with the Bureau of Area Planning in the Division of Planning, and transfer of the Offices of International Trade and Science and Technology to the Division of Economic Development.

The Commissioner's Office includes the Commissioner, who is the Executive and Administrative Head of the Department, and his two assistants. Also in this office is the Chief Counsel, who acts as the Department's legal advisor and the legal advisor to the State Industrial Finance Board. He also drafts legislation. The Assistant Commissioner serves as the Department's legislative liaison at the State House and with private groups, before whom she makes numerous

appearances to explain economic development legislation.

The Bureau of Research and Statistics gathers and disseminates statistics and descriptive information on the Massachusetts economy and on the economies of the various metropolitan and rural areas of the Commonwealth. The Bureau maintains monographs on individual municipalities. The monographs contain information on demographic data, historical and recreational attractions, housing, local economic data, municipal finances, education, transportation, local economic development efforts, local planning and utilities. The Bureau keeps the industrial site location listing used by the Department. The Bureau answers written, telephone and "walk-in" requests for information about the Commonwealth and/or any of its municipalities.

The Bureau also conducts a number of specifically requested analyses. On request from the Bureau of Commercial and Industrial Development, they do compilations of marketing data designed to induce interested firms in expanding or locating within the State. Also, for the Bureau of Commercial and Industrial Development, comprehensive comparisons between Massachusetts and specified out of state sites are performed for the purpose of inducing interested firms to remain in Massachusetts or to locate here from out of state. Area impact studies are also conducted to demonstrate the effect on a community which a certain business relocation might have. These studies seek to encourage any financial or political action by the municipality which might retain a presently existing business or attract a new business.

The Bureau of Area Planning does economic analyses and trend projections of specialized areas of the State's economy, including impact studies of proposed projects. The Bureau does not prepare any comprehensive economic plan for the State, either long range or short range.

Insofar as this Bureau and the Bureau of Research and Statistics are in the same Division, the functional difference appears to be that the former works on more long range, more theoretical projections, whereas the latter performs current analyses to meet current situations.

The main function of the Division of Economic Development is to promote the growth of the State's economy by aiding existing businesses and encouraging their expansion, assisting business start-ups and attracting new industry from out of state. It is worth noting that 85% of all business growth in the Commonwealth comes from start-ups and expansion within the State; the remaining 15% coming from out of state migrations.

To accomplish the goals mentioned above, the Division maintains nine field representatives. Four report to the Director of Economic Development for Western Massachusetts and five report to the Assistant Director of Commercial and Industrial Development. The names and addresses of the nine representatives and the areas they cover are shown in Table 1.

Table 1.

DEPARTMENT OF COMMERCE FIELD REPRESENTATIVES AND THE
COMMUNITIES THEY SERVE

REGION I
Edwin Kelley, General Representative

Office	Home
Mass. Dept. of Commerce and Development 100 Cambridge Street Boston, Mass. 02202 (617) 727-3206	857 Quincy Shore Drive Wollaston, Mass. 02170 (617) 479-7174

PLYMOUTH COUNTY	HANSON	NORWELL	WHITMAN
ABINGTON	HINGHAM	PEMBROKE	
BRIDGEWATER	HULL	PLYMOUTH	SUFFOLK COUNTY
BROCKTON	KINGSTON	PLYMPTON	BOSTON
CARVER	LAKEVILLE	ROCHESTER	CHELSEA
DUXBURY	MARION	ROCKLAND	REVERE
E. BRIDGEWATER	MARSHFIELD	SCITUATE	WINTHROP
HALIFAX	MATTAPoisETT	WAREHAM	
HANOVER	MIDDLEBOROUGH	W. BRIDGEWATER	

REGION II
George Sheehan, General Representative

Office	Home
Mass. Dept. of Commerce and Development 100 Cambridge Street Boston, Mass. 02202 (617) 727-3206	262 White Street Lowell, Mass. 01854 (617) 454-6911

ESSEX COUNTY	MANCHESTER	TOPSFIELD	READING
AMESBURY	MARBLEHEAD	WENHAM	STONEHAM
ANDOVER	MERRIMAC	WEST NEWBURY	TEWKSBURY
BEVERLY	METHUEN		TYNGSBOROUGH
BOXFORD	MIDDLETON	MIDDLESEX COUNTY	WAKEFIELD
DANVERS	NAHANT	BILLERICA	WESTFORD
ESSEX	NEWBURY	BURLINGTON	WILMINGTON
GEORGETOWN	NEWBURYPORT	CHELMSFORD	WINCHESTER
GLouceSTER	NORTH ANDOVER	DRACUT	WOBURN
GROVELAND	PEABODY	DUNSTABLE	
HAMILTON	ROCKPORT	EVERETT	
HAVERHILL	ROWLEY	LOWELL	
IPSWICH	SALEM	MALDEN	
LAWRENCE	SALISBURY	MEDFORD	
LYNN	SAUGUS	MELROSE	
LYNNFIELD	SWAMPSCOTT	NORTH READING	

DEPT. OF COMMERCE FIELD REPRESENTATIVES (CONT.)

REGION III
Norman Moore, General Representative

Office
Mass. Dept. of Commerce and
Development
100 Cambridge Street
Boston, Mass. 02202
(617) 727-3206

Home
25 Sandpiper Lane
West Yarmouth, Mass. 02673
(617) 775-3776

BRISTOL COUNTY
ACUSHNET
ATTLEBORO
BERKELEY
DARTMOUTH
DIGHTON
EASTON
FAIRHAVEN
FALL RIVER
FREETOWN
MANSFIELD
NEW BEDFORD
N. ATTLEBOROUGH

NORTON
RAYNHAM
REHOBOTH
SEEKONK
SOMERSET
SWANSEA
TAUNTON
WESTPORT

DUKES COUNTY
CHILMARK
EDGARTOWN
GAY HEAD

GOSNOLD
OAK BLUFFS
TISBURY
W. TISBURY

NANTUCKET COUNTY
NANTUCKET

BARNSTABLE COUNTY
BARNSTABLE
BOURNE
BREWSTER

CHATHAM
DENNIS
EASTHAM
FALMOUTH
HARWICH
MASHPEE
ORLEANS
PROVINCETOWN
SANDWICH
TRURO
WELLFLEET
YARMOUTH

REGION IV
Francis Miraglia, General Representative

Office
Mass. Dept. of Commerce
and Development
100 Cambridge Street
Boston, Mass. 02202
(617) 727-3206

Home
31 Mills Avenue
Revere, Mass. 02121
(617) 284-6818

NORFOLK COUNTY
AVON
BELLINGHAM
BRAINTREE
BROOKLINE
CANTON
COHASSET
DEDHAM
DOVER
FOXBOROUGH
FRANKLIN
HOLBROOK
MEDFIELD
MEDWAY
MILLIS

MILTON
NEEDHAM
NORFOLK
NORWOOD
PLAINVILLE
QUINCY
RANDOLPH
SHARON
STOUGHTON
WALPOLE
WELLESLEY
WESTWOOD
WEYMOUTH
WRENTHAM

MIDDLESEX COUNTY
ACTON
ARLINGTON
ASHLAND
BEDFORD
BELMONT
BOXBOROUGH
CAMBRIDGE
CARLISLE
CONCORD
FRAMINGHAM
HOLLISTON
HOPKINTON
HUDSON
LEXINGTON

LINCOLN
LITTLETON
MARLBOROUGH
MAYNARD
NATICK
NEWTON
SHERBORN
SOMERVILLE
STOW
SUDBURY
WALTHAM
WATERTOWN
WAYLAND
WESTON

DEPT. OF COMMERCE FIELD REPRESENTATIVES (CONT.)

REGION V
Henry Johnson, General Representative

Office
Mass. Dept. of Commerce
and Development
100 Cambridge Street
Boston, Mass. 02202
(617) 727-3206

Home
Fountainhead Apts. 304E
293 Boston Turnpike
Westboro, Mass. 01581
(617) 366-4400

WORCESTER COUNTY
AUBURN
BLACKSTONE
BRIMFIELD
BROOKFIELD
CHARLTON
DOUGLAS
DUDLEY

EAST BROOKFIELD
GRAFTON
HOLLAND
HOPEDALE
LEICESTER
MENDON
MILFORD
MILLBURY

MILLVILLE
NORTHBRIDGE
NORTH BROOKFIELD
OXFORD
SOUTHBRIDGE
SPENCER
STURBRIDGE

SUTTON
UPTON
UXBRIDGE
WALES
WARREN
WEBSTER
WEST BROOKFIELD

REGION VI
Thomas J. Early, General Representative

Office
Mass. Dept. of Commerce
and Development
Massachusetts Building
Exposition Grounds
Avenue of the States
West Springfield, Mass. 01089
(413) 739-5600

Home
48 Housatonic St.
Worcester, Mass. 01606
(617) 853-5276

WORCESTER COUNTY
ASHBURNHAM
ASHBY
ATHOL
AYER
BARRE
BERLIN
BOLTON
BOYLSTON
CLINTON

FITCHBURG
GARDNER
GROTON
HARDWICK
HARVARD
HOLDEN
HUBBARDSTON
LANCASTER
LEOMINSTER
LUNENBURG

NEW BRAINTREE
OAKHAM
ORANGE
PAXTON
PEPPERELL
PETERSHAM
PHILLIPSTON
PRINCETON
ROYALSTON
RUTLAND

SHIRLEY
SHREWSBURY
STERLING
TEMPLETON
TOWNSEND
WEST BOYLSTON
WESTMINSTER
WINCHENDON
WORCESTER

DEPT. OF COMMERCE FIELD REPRESENTATIVES (CONT.)

REGION VII
Mitchell Ziencina, General Representative

Office
Mass. Dept. of Commerce
and Development
Massachusetts Building
Exposition Grounds
Avenue of the States
West Springfield, Mass. 01089
(413) 739-5600

Home
59 Howard Street
Ludlow, Mass. 01056
(413) 583-3971

HAMDEN COUNTY

AGAWAM
BELCHERTOWN
CHICOOPEE
EAST LONGMEADOW
EASTHAMPTON

GRANBY
HAMPDEN
HOLYOKE
LONGMEADOW
LUDLOW

MONSON
PALMER
SOUTH HADLEY
SOUTHAMPTON
SOUTHWICK

SPRINGFIELD
WARE
WEST SPRINGFIELD
WESTFIELD
WILBRAHAM

REGION VIII
Felix Borawski, General Representative

Office
Mass. Dept. of Commerce
and Development
Massachusetts Building
Exposition Grounds
Avenue of the States
West Springfield, Mass. 01089
(413) 739-5600

Home
74 Barrett Street
Northampton, Mass. 01060
(413) 584-8639

FRANKLIN COUNTY

AMHERST
ASHFIELD
BERNARDSTON
BUCKLAND
CHARLEMONT
CHESTERFIELD
COLRAIN
CONWAY
CUMMINGTON

DEERFIELD
ERVING
GILL
GOSHEN
GREENFIELD
HADLEY
HATFIELD
HAWLEY
HEATH

LEVERETT
LEYDEN
MONTAGUE
NEW SALEM
NORTHFIELD
NORTHAMPTON
PELHAM
PLAINFIELD
ROWE

SHELBOURNE
SHUTESBURY
SUNDERLAND
WARWICK
WENDELL
WESTHAMPTON
WHATELY
WILLIAMSBURG
WORTHINGTON

DEPT. OF COMMERCE FIELD REPRESENTATIVES (CONT.)

REGION IX

Carl Eger, General Representative

Office
Mass. Dept. of Commerce
and Development
Massachusetts Building
Exposition Grounds
Avenue of the States
West Springfield, Mass. 01089
(413) 739-5600

Home
1694 Northampton St.
Holyoke, Mass. 01040
(413) 536-4735

BERKSHIRE COUNTY
ADAMS
ALFORD
BECKET
BLANDFORD
CHESHIRE
CHESTER
CLARKSBURG
DALTON
EGREMONT
FLORIDA

GRANVILLE
GREAT BARRINGTON
HANCOCK
HINSDALE
HUNTINGTON
LANESBOROUGH
LEE
LENOX
MIDDLEFIELD
MONROE
MONTEREY

MONTGOMERY
MOUNT WASHINGTON
NEW ASHFORD
NEW MARLBOROUGH
NORTH ADAMS
OTIS
PERU
PITTSFIELD
RICHMOND
RUSSELL

SANDISFIELD
SAVOY
SHEFFIELD
STOCKBRIDGE
TOLLAND
TYRINGHAM
WASHINGTON
WEST STOCKBRIDGE
WILLIAMSTOWN
WINDSOR

The nine representatives have four major functions:
1. They visit every manufacturer in their area at least once a year to offer assistance; they keep businesses within their areas up-to-date on the activities and available services of the Department of Commerce and Development; they provide statistical and other information requested by businessmen; and they assist businesses on a variety of matters, such as taxes, disaster relief, market penetration and getting an access road or utilities put in. When necessary, they involve other state agencies in the solution of particular problems.

2. They keep the Department informed of major developments in the field, such as a serious fire at a particular plant; and, they provide inputs to the Bureaus of Research and Statistics and Area Planning, including up-to-the-minute information for the industrial site listing. They also conduct economic surveys for the Department on matters such as the effects of proposed termination of rail service on certain feeder lines and the rate of growth along Route 128.

3. They act as regional salesmen by trying to persuade businessmen to expand, relocate or start new businesses within their territories. Inquiries received for locations are sent by the Department to the representatives who have available sites meeting the specifications. The representatives send in a site package, or packages. The inquiring businessman can then select the ones in which

he is most interested and the representative will meet him in the field and provide him with a site inspection tour.

4. They provide assistance to the various municipal authorities and officials who request advice on economic development projects; they assist in the formation of Industrial Development Finance Authorities and Economic Development and Industrial Corporations; and they act as liaison between businesses and municipal bodies, seeking to bring together businesses who are looking for locations to expand or relocate with municipal agencies seeking new businesses for their areas.

While the field representatives receive support from the other Departmental activities as needed, the foregoing description of their duties indicates that they are available to perform reasonably sophisticated services on the spot, without having to involve other Departmental personnel.

The Bureau of Economic Development for Western Massachusetts has the general responsibility its name suggests. However, since it is a two man operation, apart from the four field representatives assigned to it, some of the more technical work is handled out of Boston.

The Bureau of Commercial and Industrial Develop-

ment works mainly on expansions and instate migrations of industrial concerns. The major part of this work relates to the various aspects of plant construction financing. Municipalities are assisted in the establishment of Industrial Development Financing Authorities and Economic Development and Industrial Corporations. When such a municipal agency contemplates a bond issue, the Bureau takes the municipality through the various steps involved.

Questions from the field on plant financing are answered here. Often, the inquiring businessman is brought in to talk with the Bureau.

It should be noted that the Director of the Bureau is also Secretary of the State Industrial Finance Board. He is probably the leading expert in the State on industrial and commercial revenue bond financing and in the establishment of agencies capable of issuing such bonds. It is for that reason that the Bureau is so deeply involved in these matters, and that questions about any of them should be addressed to the Director of the Bureau.

The Bureau also keeps track of requests for assistance in plant expansion or migration from out of state. It attempts to insure that effective follow up is provided. Often, central Bureau staff, particularly the Director, will get directly involved with responding to these requests for assistance in the hope that bringing their expertise to bear will assist in consummating an expansion or relocation.

The Bureau also puts on seminars for businessmen. They cover a wide variety of subjects, ranging from import-export opportunities and financing to plant construction financing. The seminars are given by Department personnel and by personnel from other state agencies as their expertise as needed.

The Women's Bureau acts as an information clearing house for women who have or want to start a business. Technical assistance for business start-ups and problems related to an existing business is also available. In addition, the Bureau undertakes frequent speaking engagements and provides advice at numerous seminars and meetings dealing with such problems as re-educating the housewife to return to the labor market, widening employment opportunities for women and relocating women who have lost their jobs due to business and government shut downs. The Bureau has also taken an active role in assisting men, particularly elderly men, with business problems. Assistance is also given to minority businesses.

The International Trade Office has as its primary function to promote the export of Massachusetts products. The Office also works on encouraging foreign industrial development within Massachusetts, known as "reverse investment."

Promotion of exports is done through field representatives and direct inquiries at the production end, and through an average of two visits a year to other countries on the market end. The office obtains marketing statistics, credit references and assists in arranging credit for foreign purchasers, with payment guarantees for the domestic company arranged through the U.S. Export/Import Bank. An active information and

referral service is maintained for companies interested in exporting.

Reverse investment leads are pursued in very much the same manner as a domestic expansion lead. Upon request for information by a potential foreign investor, the office will send general information publications and then try to get the specific site requirements of the potential investor. Upon receipt of the specifics, the information will be sent out to the field representatives whose districts may qualify, the site packages are returned and, if the investor comes to Massachusetts, he gets on site inspections of those sites which interest him.



The Office of Science and Technology is primarily involved in promoting high technology business start-up and development in the state. Most of the efforts are directed toward start-ups. The Office works at the actual product level, analyzing new inventions and then trying to find private money for equity in these largely high risk ventures. Most of this money has come from private investors with surplus capital to invest.

The Office has been active in developing a new mechanism for utilizing private capital. Considerable effort has gone into encouraging the establishment of a Citizens Equity Committee in Pittsfield. This Committee, made up of local business specialists, reviews proposals for new businesses and invests the money it has raised from its constituents in those proposals which have some chance of success. Technical assistance with a variety of business problems is also made available. The Committee, now known as Growth Business Consultants, is beginning to draw some support from local banks. The Office developed this equity project in Pittsfield as a model. They are now interested in seeing similar groups become active in other communities, and they are available to assist in the development of such a group.

In response to requests for assistance in the area of mergers, the Office will put together a merger package of several possibly desirable firms which might meet

the specifications of the potential buyer who hopes to expand in the state. Some of these packages are prepared with considerable effort and include extensive marketing projections and multi-year cash flows.

It should be noted that the Director is a widely respected individual in the field of business development. Questions about obtaining equity for new ventures, particularly high technology, high risk ventures should be directed to this Office.

The Division of Tourism promotes Massachusetts as an attractive place to visit. This promotion is done through advertisements, publications prepared by the Division and participation in shows throughout the Northeast dealing with travel, general recreation, hunting, fishing, camping and skiing. The Division sponsors a person who travels around the country talking to travel editors seeking to get feature stories about Massachusetts tourist attractions published.

The Division pursues all leads concerning private and municipal organizations which indicate that assistance and advice are being sought for historic, recreational or tourist development projects. Such assistance is then rendered, or the interested group is referred to whatever agency can give them the desired assistance. The Division also gives technical assistance to individual tourist businesses.

The Bureau of Administration is responsible for the administrative matters related to running the Department.

For those interested in contacting the Department of

Commerce and Development, Table II indicates the phone numbers of key personnel.

The Department has just added a new Division of Small Business Assistance, consisting of a Director, Assistant Director, Industrial Specialist and Marketing Analyst. The purpose of the Division is to provide comprehensive technical assistance to small businesses.

Also just added is an Office of Economic Research and Planning, consisting of five economists. The Office will report directly to the Commissioner. The purpose of the Office is to do real economic research and planning, as opposed to research on the characteristics of municipalities, particular sites and existing tax laws.

A comprehensive reorganization for the Department is suggested here and illustrated by Chart 1. The plan put forth does not deal with personnel positions below the Bureau Director level. This is mainly because the emphasis here is on the type of services delivered and the organization of that delivery.

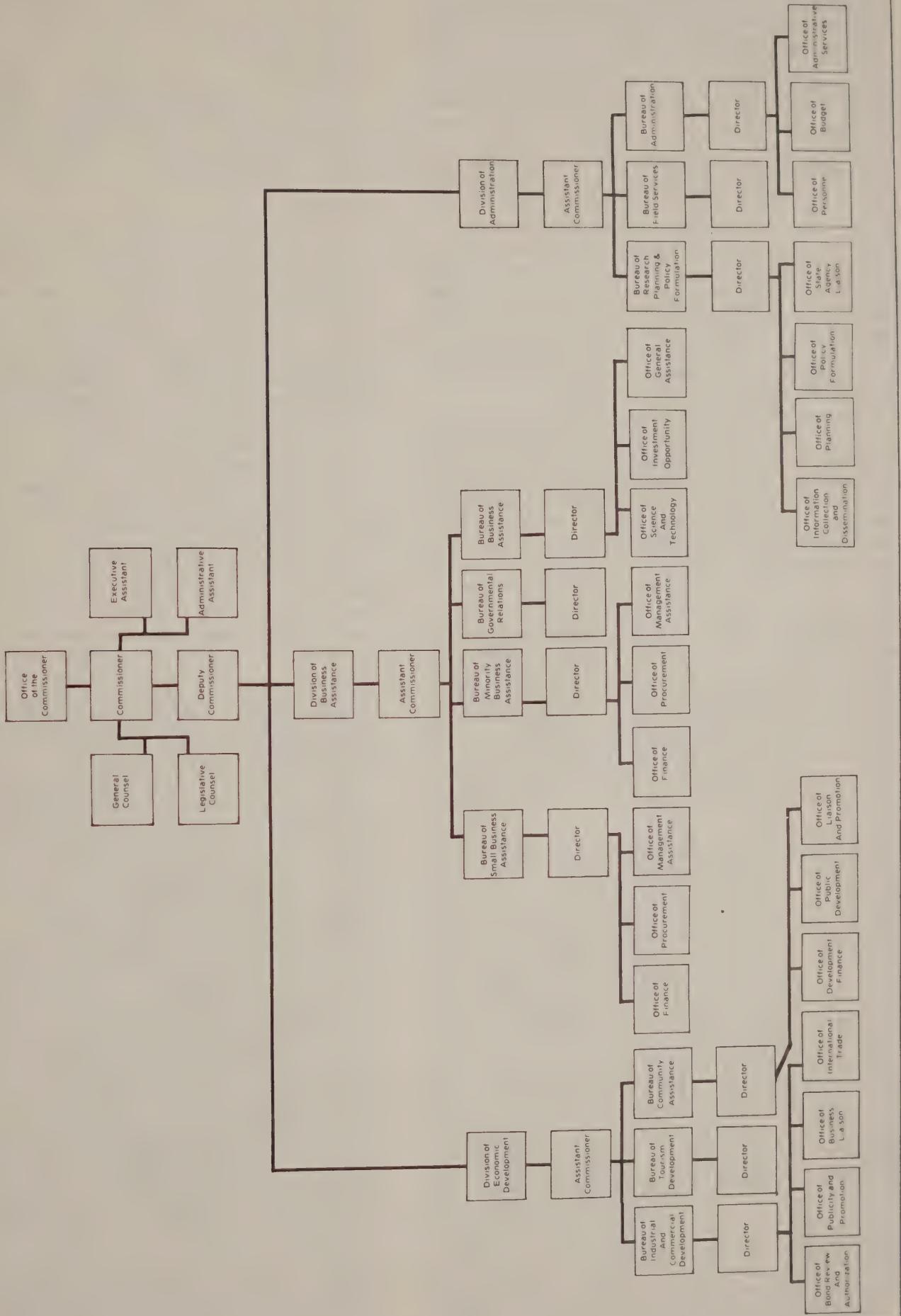
The Department renders two primary services. Firms are encouraged to expand or to locate here from out of state. The Department works on this goal directly, and it assists local agencies in the pursuit of that goal. This is a major function and should be the mission of a Division. Within that Division, there should be a separation of those activities which are carried out directly by the State and those which are carried out on behalf of local agencies or which constitute assistance to local groups. Within each group of activities, there should be specialization according to function.

Table II.
TELEPHONE DIRECTORY

DEPARTMENT OF COMMERCE AND DEVELOPMENT PERSONNEL

Commissioner	727-3218
Deputy Commissioner for Planning	727-3216
Director of Area Planning	727-3229
Director of Research & Statistics	727-3214
Deputy Commissioner for Economic Development	727-3208
Director of Commercial & Industrial Development	727-3649
Science & Technology Representative	727-3228
International Trade Representative	727-3234
Director of Women's Bureau	727-3211
Deputy Commissioner for Tourism	727-3204
Director of Vacation & Travel	727-3205
Director of Public Relations	727-3232

CHART I SUGGESTED REORGANIZATION



The Office of Bond Review and Authorization would staff the State Industrial Finance Board. The Office of Publicity and Promotion is self-explanatory. The Office of Business Liaison would be the personnel that dealt directly with businessmen and would attempt to persuade them to expand or locate in the state. The Office of International Trade would perform its present functions.

The same breakdown according to function should exist with respect to activities aimed at local groups. The Office of Development Finance would assist municipalities in setting up Industrial Development Finance Authorities and Economic Development and Industrial Corporations, and it would assist those agencies in doing bond issues. The Office of Public Development would work with municipalities to insure that they had the necessary public facilities and services to attract business. The Office of Liaison and Promotion would assist localities in their promotional efforts and in their direct dealings with businessmen.

While tourism is a major industry in Massachusetts, it is argued here that the promotional activities aimed at increasing tourist business are not so unique and do not require so many people as to constitute a third primary function of the Department. Promotion of tourism is more appropriately a Bureau function in that Division whose primary function is to attract business into the State. Accordingly, the Bureau of Tourism has been placed in the Economic Development Division.

The second major activity of the Department is assisting individual businesses. Small businesses constitute a substantial majority of all business in the State. They have unique problems, the major ones of which are insufficient financing, insufficient marketing capability and lack of management sophistication. The Bureau of Small Business Assistance would deal with this vital sector of our economy, and the three offices of the Bureau would deal with the major problem areas.

Minority businesses not only share the problems of most small businesses, but they have additional problems uniquely facing minority entrepreneurs. While the major problems are the same, the staff dealing with minority businessmen must have sensitivity to their unique problems. That is why a separate bureau is proposed. The State Office of Minority Business Assistance should be brought over from the Office of the Secretary of Communities and Development as the Bureau of Minority Business Assistance.

The businessman in almost any industry faces a considerable amount of state and local regulation. He must deal with a large number of agencies to manufacture his product, build his buildings or deliver his services. Many businessmen would welcome assistance in these dealings, and the Bureau of Government Regulations is designed to provide that service. Many businessmen object to regulation less than they mind the lengthy delays which accompany much regulatory activity. Accordingly, Bureau personnel would serve as expediters, attempting on behalf of the businessman, to speed agency action.

The Bureau of Business Assistance is designed to give

certain kinds of assistance not offered by either of the other bureaus. The Office of Science and Technology would continue to seek to translate high technology into business opportunities. However, the functions of seeking equity for business start-ups and expansions and assisting companies interested in mergers would be shifted to the Office of Investment Opportunities. The Office of General Assistance would assist businessmen with miscellaneous problems which arise and which are not properly the function of other Departmental personnel.

The staff functions which support the primary line activities of the Department are grouped together in a Division in order to insure effective coordination of these functions and to insure their proper integration with the line activities.

The Bureau of Research, Planning and Policy Formulation would provide the critical functions of information gathering and dissemination, planning, and establishing economic development policies. These functions have been combined in one office in order to eliminate present duplication on the one hand, and to provide for more effective integration on the other hand. The Office of Information Collection and Dissemination would perform the functions presently performed by the Bureau of Research and Statistics. The office of Planning would do the kind of long range planning the Department is mandated to do but has not done. Specifically, it should produce three, five and ten year plans, and these plans should be regularly updated. The Office of Policy Formulation should develop economic development policy alternatives for the Commissioner, and, through him, for the Governor. The Office of State Agency Liaison would act as the Department's liaison to other state agencies. This function is placed in this Bureau because most of the liaison work takes place in contexts of policy formulation.

The Bureau of Field Services would run the field offices and field staff. More field offices than just the one in Springfield are clearly needed. How many and what size staff should be in these offices are questions to be left for other discussions.

The Bureau of Administration would provide the administrative services now provided by that Bureau. Offices for personnel, budget, and administrative services are suggested in order to encourage an increased professional capacity in each of these areas.

It should be emphasized that the scheme suggested here contains several key concepts--delineating two primary activities, giving considerably more emphasis to technical assistance to municipalities in their development efforts, more emphasis to small and minority business assistance, providing businessmen with assistance in dealing with government agencies, more rigorously identifying the activities of the Department and more clearly assigning responsibility for their performance and developing real planning and policy formulation capability. The particular structure suggested can undoubtedly be improved.

The nomenclature has been intentionally chosen to suggest functions, rather than to be aesthetically appealing or easy to handle. It too can be improved. It is the basic concepts that are strongly urged.

State Office of Minority Business Assistance

- 4) Work with financial institutions to make available funds for minority business start-ups and expansion;
- 5) Assist minority businesses in their dealings with other State agencies;
- 6) Conduct seminars and other informational programs; and
- 7) Encourage Executive placement programs of limited duration both for minority businessmen in successful nonminority businesses and for nonminority businessmen in minority firms.

Statutory Scheme

Promoting the development of minority businessmen is the responsibility of the State Office of Minority Business Assistance (SOMBA).

SOMBA was not created by Statute, but rather by Executive Order No. 92, issued by the Governor in 1972. That order provided that SOMBA should be established by the Secretary of Communities and Development in his Executive Office. SOMBA is mandated by Executive Order to:

- 1) Make available to minority businessmen expertise in finances, marketing and procurement;
- 2) Prepare a list of minority businessmen in the State and to periodically notify these businesses of all services available to them from Federal, State, local and private agencies;
- 3) Obtain assistance in fulfilling its mandate from other State agencies, including some preferential contracting with minority businesses;



Analysis

As a result of a change in the funding commitments by the Federal Office of Minority Business Enterprise, which has provided the entire funding for the first year, the broad mandate spelled out in the Governor's order has not been capable of attainment. The operating goals have been narrowed to bring them within reach of a reduced staff.

SOMBA will concentrate its activities primarily in five cities with significant minority populations. These cities are Boston, Worcester, Springfield, Haverhill and New Bedford-Fall River.

Procuring contracts from State agencies will be one major effort of SOMBA. It will be the responsibility of the Assistant Director, who will be working primarily with the Bureau of Building Construction, the Department of Public Works and the Department of Administration and Finance.

Education and training will be another area of emphasis. Periodic seminars in all aspects of business operations will be held. Special seminars at which State agency personnel would talk about their areas of expertise are also planned. Case by case technical assistance will also be available, although on a limited basis because of the size of the staff. The area of education and training will be the responsibility of the Education and Training Specialist.

The problems of minority contractors will get special attention. The procurement efforts already described will deal with, among other things, state building and highway contracts. The Construction Specialist will work with contractors to improve their estimating and bidding skills. The Director will deal with the problem of bonding.

The Director will also involve himself in two other areas of considerable importance to all minority businessmen. These areas are financing and selling in the private market.

The critical questions to be answered are to what extent SOMBA can make the state bureaucracy responsive to the needs of the minority entrepreneur, and to what extent the Office can make badly needed private resources more accessible to minority businessmen.

Urban Job Incentive Bureau

Statutory Scheme

An eligible business facility may apply to the Urban Job Incentive Bureau for a certificate of eligibility, which, if issued, entitles the recipient corporation to certain tax advantages. (These tax advantages are discussed in detail in the section on taxes.)

An eligible business facility is one which is owned by a corporation and which meets the following additional criteria.

1. The business facility must be located in or adjacent to an area of substantial poverty, but must serve an area larger than the area of substantial poverty. It must be engaged primarily in manufacturing or wholesaling. Retail and insurance businesses, banks, hotels and apartment houses are not eligible.

2. At least 20%, and, in any case, not less than 5 of the employees of the business facility must be residents of the eligible section of substantial poverty in which the facility is located or to which it is adjacent.

3. The business facility must have a training program, approved by the Bureau, which trains the employees who are residents of the eligible section of substantial poverty for their initial jobs, and which assures them job upgrading leading to supervisory positions.

4. The business facility must be a new place of business separate and apart from the corporation's other facilities, and it must represent expanded activities of the corporation. Only where a business has been displaced for public use can its replacement meet the requirements.

An eligible section of substantial poverty is a section of one or more cities or towns, which city or town:

1. Has been found by the U.S. Secretary of Labor to have "sections of concentrated unemployment or underemployment;"

2. Is part of a standard metropolitan statistical area of over 250,000 persons, which according to the latest U.S. Census, contains one or more poverty areas; or

3. Is part of a standard metropolitan statistical area of under 250,000 persons, which, according to the latest U.S. Census, contains one or more "poor tracts," except that, for the purposes of this Statute, a "poor tract," to be eligible, must be in the lowest quarter of all such tracts in cities of over 50,000 people in Massachusetts.

The certificate of eligibility issued by the Bureau is effective only for the year for which it is issued, but it may be renewed from year to year up to a maximum of ten years. The certificate may be revoked by the Bureau for failing to meet the requirements of a training program or for failing to completely set forth relevant

facts in the application for a certificate. Any decision of the Bureau with respect to issuing, denying or revoking a certificate is reviewable under the Administrative Procedure Act.

The Bureau has the responsibility of identifying and designating eligible sections of poverty and of certifying the training programs required of eligible business facilities.

The Bureau is mandated by the Statute to develop and coordinate a statewide manpower training program aimed particularly at residents of eligible sections of poverty.

Analysis

The operation of this Bureau was delayed for two years due to lack of funds. In 1972 the Bureau finally received a Federal Grant. This fiscal year will see it receiving its first State funds.

The Bureau has spent the major part of its time since getting funded determining which areas in the State are eligible for its programs and then addressing groups in those areas in an effort to familiarize people with what the Bureau offers. As of this writing, these efforts have resulted in the certification of one business facility and the possible certification, in the near future, of four more.

The Bureau staff has spent a significant amount of time giving assistance to individual businesses. This aid has taken the form of, among other things, helping a company which sustained serious fire damage with its insurance problems, helping a number of small fishing companies at the time of the Red Tide, helping a company move its headquarters from New York to Massachusetts and helping companies get financing.

It would appear that much of what the Bureau does duplicates the efforts of the Department of Commerce and Development. In the DCD structure suggested earlier, the function of assisting individual businesses could be assigned to the Division of Business Assistance and its appropriate Bureaus. The function of acquainting relevant people with the Bureau's incentives and its certification function should be assigned to the Division of Economic Development and its Bureau of Industrial and Commercial Development. Within that Bureau, the Office of Publicity and Promotion could be responsible for promoting the incentives, and the Office of Bond Review and Authorization could certify eligible companies. Even under the present structure, it seems that duplication could be substantially reduced and efficiency substantially increased by moving the Bureau from the Department of Community Affairs to the Department of Commerce and Development.



Tax Incentives

Urban Redevelopment Corporations

Statutory Scheme

A Corporation formed under certain conditions to perform certain objectives may be given eminent domain powers and certain tax advantages.

The Corporation must be formed to carry out a project approved by the Department of Community Affairs (DCA). If the project is in Boston, the project must be approved by the Boston Redevelopment Authority. (All powers given to DCA under this Statute are held by the Boston Redevelopment Authority with respect to projects in the City of Boston. This will not be repeated throughout, so, when considering a project in Boston, the Boston Redevelopment Authority should be substituted wherever DCA appears.) The Corporation can only do one project and can engage in no other activities of any kind.

Before the Corporate papers can be filed, an application for approval of the project must be filed with DCA. The application must describe why the project should be carried out, to what uses it will be put, where it will be located, what the project is estimated to cost, how much capital will be raised, and in general terms, what will be built. The application must be accompanied by a site plan, a typical building plan and the elevations of the proposed structures.

When DCA receives the application, it is forwarded to the Mayor (or City Manager) of the City or to the Selectmen of the town in which the project is proposed to be built. The Mayor (City Manager) or the Selectmen refer it to the Planning Board. The Planning Board, after a public hearing, must approve or disapprove the project. In order to approve it, the Planning Board must find that the project is to be built in a "blighted open area," a "decadent area," or a "sub-standard area;" that the buildings to be erected are "residential," "commercial," "industrial," "institutional," "recreational" or "governmental;" that the project conforms with the municipality's master plan, if one exists; that the project is not detrimental to the public safety, the convenience or the best interests of the municipality or its citizens; and that the project is consistent with the most suitable development of the municipality.

If the project involves the destruction or rehabilitation of any housing, the Planning Board must determine that there is replacement housing of equivalent price and quality and situated in an equivalent neighborhood available, or that the project includes the provision of such equivalent housing. If such a finding cannot be made, the

project must be disapproved.

The Planning Board forwards its approval or disapproval and the reasons therefor to the Mayor or Selectmen, who forward the report, together with their own recommendation and the reasons therefor, to DCA.

Upon receipt of the approval of the Planning Board and of the Mayor or Selectmen, DCA must determine to its satisfaction that the project is to be located in a "blighted open area," a "decadent area" or a "sub-standard area;" that the buildings to be erected are "residential," "commercial," "industrial," "institutional," "recreational," or "governmental;" that the cost of the project has been correctly estimated and the project can be carried out as planned; and that the construction and operation of the project will not violate any ordinance, by-law or regulation of the municipality in which the project will be located nor any of the regulations promulgated by DCA under this Statute. If DCA finds that each of these requirements are met, it must issue a certificate approving the project and the formation of the Corporation to carry out the project. At that time, the Corporate papers must be filed with the Secretary of State's Office.

If DCA disapproves the application, it must state its reasons in writing. At that time it may suggest modifications which would meet its objections. If the suggestions are followed, DCA may then approve the project, unless any of the changes are fundamental, in which case the application must be returned to the municipality to go through the local approval process again.

Upon obtaining project approval from DCA and filing of the Corporate papers, the Corporation must enter into a contract with the municipality in which the project is to be built. The contract provides for the carrying out of the project according to the terms of the project application, this Chapter and the regulations promulgated by DCA under the authority of this Statute. The contract may stipulate that amendments made to any of these documents shall not affect the project unless by mutual consent; it may also provide for a payment to the municipality by the Corporation of a specific or ascertainable amount over and above the excise specified in this Statute, if such amount has been provided for in the application.

The project cost is financed through sale of Corporate stock and through borrowing. The Corporation may not borrow more than 90 per cent of the estimated project cost, unless it is a project financed wholly or partly by federal funds or with federal mortgage insurance or guarantees, in which case the Corporation may borrow as much of the estimated project cost as DCA will approve. Borrowing may include the issuance of bonds. The remainder of the financing comes from sale of the Corporation's stock and any grants or gifts the Corporation may obtain.

The stock of the Corporation must be entirely paid for before the Corporation can begin the construction of its project. Compensation may be in the form of cash or property, or with the approval of DCA, in the form of ser-

vices. The stock must first be issued to owners of real estate in the project area. They may subscribe it up to the value of their real estate in the project area, less any encumbrances. The value of the real estate is to be established by agreement, subject to the approval of DCA, between the owner and Corporation, and if they cannot agree, the value is to be set by DCA.

The stock not taken by the owners of real estate in the project area at the end of 30 days is purchased by the incorporators in proportion to, but not in excess of, their respective subscriptions. If there is any stock left over, it must be offered to the general public.

The Corporation's stockholders cannot, for the first forty years of the project's existence, receive a greater return on their investment than the amount they paid for the stock plus annual dividends of six per cent of that amount. If the full six per cent is not paid in any year, the stockholder is entitled to receive in any subsequent year the difference between what he received and six per cent plus the full six per cent dividends for that year.



For 40 years from the date of its organization, the Corporation has no tax liability (unless it owns motor vehicles). In lieu of taxes, the Corporation pays to the State an excise of five per cent of its gross income the preceeding calendar year, plus an amount equal to 10 dollars per thousand of assessed valuation. The valuation on which assessment is based is an annual determination

by the assessors of the municipality in which the project is located of the fair cash value of all of the Corporation's real and tangible personal property. In any event, the excise shall not be less than the municipality in which the project is located would have received had it levied property taxes on the Corporation's property at the current rate on the lesser of the following valuations: a) the current fair cash value of all the Corporation's property, or b) the average assessed value, less abatements, of the land, buildings, other improvements on the land and fixtures in the buildings for the three years immediately prior to lease or acquisition by the Corporation. The provisions of the Corporate excise law relating to assessment, payment, abatement, verification and administration of the Corporate excise tax apply to the Corporation. The excise collected is distributed to the municipality in which the project is located.

If the Corporation leases land and/or buildings from any private party, the land and/or buildings are taxable as if occupied by the private party. However, any structures built on the land or improvements made to the buildings by the Corporation are not taxable as long as the Corporation is not paying taxes.

The Corporation may, with the approval of DCA, take land and/or buildings by eminent domain. It must comply with Chapter 79, the Eminent Domain Statute, except that damages will be awarded by DCA. The Corporation, after getting DCA's approval, may institute the taking proceedings itself. The Corporation may sell any or all of the land and/or buildings taken to another Corporation, but before they can be sold to a Corporation that has not been formed under this Statute, the transaction must be approved locally in the same manner as the original project applications.

The Corporation may apply to DCA for permission to change the kind and structure of some or all of the buildings it proposes to erect or rehabilitate. DCA can approve such changes unless it believes the changes to be "fundamental," in which case the request for changes must be forwarded to the municipality in which the project is located for approval in the same manner as the original application.

The Corporation may contract with the municipality in which the project is located to have the municipality construct or modify streets and sidewalks in or adjacent to the project area, if such improvements are required by the public "necessity and convenience." The contract may also provide for the construction of parks, schools and playgrounds and water and sewage facilities in, near or in conjunction with the project.

The gross income of the Corporation in any year must first be applied to operating and maintaining the project, including any necessary reserves for replacements; payments in lieu of taxes; interest on all indebtedness; any fees, including those arising in connection with federal mortgage insurance or guarantees; repayment of principle according to the schedule included in the project application; dividends; and any other payments or transfers to surplus or reserves authorized by DCA. If, after these expenses have been met, there is any excess,

the excess must be paid to the municipality in which the project is located up to the amount of the difference between what the Corporation would have paid to the municipality in property taxes had it not been exempt and the amount actually paid by the Corporation under the provisions of this Statute. If, after the payment to the municipality, there is still an excess, the remaining funds may, with the approval of DCA, be used to reduce Corporate indebtedness, to further improve Corporate property or to expand the project.

All the special restrictions and benefits of the Corporation expire after 40 years, if DCA finds that the Corporation has properly met its obligations.

Any successor in interest to the Corporation in all or part of the project as a result of mortgage foreclosure, enforcement of a lien, termination of a lease or a conveyance by the Corporation to avoid any of these has four options. The successor in interest can hold the project subject to the same benefits and restrictions, or it can sell the project to a purchaser which, as a part of the sales agreement, agrees to hold the project subject to the same benefits and restrictions. With the approval of DCA, the successor in interest (except banks and insurance companies, which require the approval of the Commissioners of Banking and Insurance, respectively) can hold the project without the benefits and restrictions of this Statute, or the successor in interest can sell the project to a purchaser which will hold it free of the benefits and restrictions. If the project is acquired by any successor in interest or purchaser which decides to hold the project under the provisions of this Statute, the forty year duration of those provisions is still measured from the date of organization of the original Corporation.

An insurance company is authorized to participate under this Statute in accordance with its provisions. There are, however, several differences between an insurance company and a Corporation formed specifically under the provisions of this Statute, the most important being that an insurance company needs the approval of the Commissioner of Insurance to undertake a project (besides the various approvals it needs from DCA and local officials) and that an insurance company may undertake one or more project. A savings bank is likewise authorized, with the approval of the Commissioner of Banking, to undertake one or more projects. The investment of the savings bank in all projects cannot exceed three per cent of the deposits of the bank. In the case of insurance companies and savings banks, the maximum six per cent return on investment is limited to projects carried out pursuant to this Statute, not to all business ventures.

A Corporation may be formed for the purpose of acquiring a project which is being, or has been, developed. Before the Corporate papers can be filed, DCA must approve an application for a Certificate, which application must indicate what project is to be acquired, the terms of acquisition, how much capital will be raised and the proposed changes if any. If DCA believes the proposed changes are "fundamental," the

application is forwarded to the municipality where the project is located for the approval of the local officials in the manner previously described, with whatever variations DCA believes advisable. When DCA issues a certificate approving the formation of the Corporation, the papers may be filed and the acquisition consummated.

Individuals and partnerships are authorized to carry out projects under this Statute in the same ways as Corporations, with several exceptions. The most important of these differences are that the provisions of this Statute specifying benefits and restrictions must be the subject of so-called "regulatory agreements" between the individual or partnership and DCA and that an individual or partnership may not exercise the power of eminent domain. The maximum six per cent returned on investment applies to projects carried out under this Statute and not to all the individual's or partnership's business interests.

Analysis

To put the significance of the benefits offered by this legislation in some perspective, an analysis was done of the assessing practices of the City of Boston. According to a number of knowledgeable observers, the present Boston assessing practice was devised as a way to make the Prudential Center economically feasible. The Prudential Center was the first major example of the application of the Principle of Proportional Return. This principle is usually thought of as equating a building's real estate tax to approximately 20% of the building's gross income. In reality, the process proceeds in roughly the following manner:

- 1) The economic rent for the property is computed. This is determined by securing from the owner his statement as to income and expenses, including operating expenses and maintenance and carrying charges on the property's financing.
- 2) An allowance is made for a normal vacancy rate (2%-10%).
- 3) This gives the assessor the amount which is available for the payment of taxes and return on investment.
- 4) From 3's figure is deducted a sum which is equal to approximately 6% to 8% of the developer's equity.
- 5) The remainder is allocated for Boston's property tax. In the Prudential case this sum was approximately 20% of the gross income, and thus was born the percentage of gross income formula for assessing Boston property.

The following figures are those usually used for the indicated type of businesses.

Commercial Buildings = 20% - 25% of Gross Income

Hotels & Motels = \$400 - \$450 per Room

Apartments = 28% of Gross Income

Retail, First Floor = 30% - 40% of Gross Income

Second Floor = Much Less Than First

Although the City usually demands a minimum tax which equals what the developer pays in taxes the first full year of the building's operation, this system still resembles giving the developer an annuity. The annuity is the six to eight per cent deducted from gross income.

This process has recently been modified to a policy whereby the assessed value of property will be fixed at the 1972 level and the tax bill goes up or down with the City's tax rate. This means that future tax escalations will have to be passed on to the tenants.

An example of how this modification affects those it applies to is Center Plaza. Originally, this building was given a land subsidy, and an agreement was reached between it and the Boston assessors that it would pay as taxes 20% of gross income. In return the developer of this building would erect it in the low, aesthetically pleasing but uneconomical fashion in which it now stands. Under the new system, the taxes will rise as the tax rate rises, rather than as gross income rises. The modification is especially damaging to a building like Center Plaza because next door is 1 Beacon Street, which is advertising the fact that their tenants will never have to pay a tax escalation because they are a 121A Corporation.

Even under this new policy, a new building's initial assessment is arrived at by the percentage of gross income method. That such a system contains certain inequities can be seen from the fact that most older commercial buildings are paying approximately 40% of gross income.

Assessing practices in Boston appear to rest on a questionable legal foundation. Although the process is much more above board than it used to be, it still involves deals. This not only leaves room for treating similarly situated parties differently, it puts the treatment of major elements of the tax base on an informal basis which may or may not be honored by succeeding administrations.

This introduction has explained the methods used for assessing non 121A commercial buildings in one City and has suggested some of the problems inherent in this approach. It should be emphasized, however, that any urban area which is seeking commercial or industrial development is going to be competing with any number of other areas with the same objectives. One of the most commonly used methods of getting an edge on competing locations is by offering a tax deal. As a practical matter, tax concessions to major developments are a necessity. This introduction has not meant to suggest otherwise, rather it has attempted to show some of the problems of the present standard approach. One Twenty One A Corporations offer one kind of alternative. Because of the requirements in the Statute with regard to where and by whom such projects can be built, this is not an alternative available in every case.

Since 121A is administered by the Boston Redevelopment Authority (BRA) in Boston and by the Office of Redevelopment Assistance in the Department of Community Affairs (DCA) for the rest of Massachusetts, and since there is a tangible difference in the way the two organizations interpret the law, each organization will be treated separately.

In regards to commercial projects, the BRA sees 121A as a means to entice desirable developments and companies to locate or relocate in Boston. Not only is it a tax concession through its ceiling clause, it is also tax security. To a businessman who is plagued by uncertainty, the latter is perhaps the most important, especially since 121A agreements are legally binding contracts which last for forty years.

A recent commercial project developed under 121A was 1 Beacon Street. Some have argued that it is hard to see how the area of 1 Beacon Street could have been classified as "blighted or decadent" or how the new building performs "functions for the public benefit."

The Director of the BRA when 1 Beacon Street was coming up for approval claims that 1 Beacon Street came under 121A because it was essential for the proper completion of the New City Hall area. All the rest of the buildings in the Government Center area had been granted land subsidies which were unavailable to the developers of 1 Beacon Street. He claimed that 121A was essential here because the BRA wanted to control the development of this area in order that the proper access ways be established and for general aesthetic purposes. At the heart of this argument lay the opinion that such large scale developments necessitate tax agreements. The only reason that 121A was used here instead of a normal assessor's agreement was the added need for architectural control.

The present BRA Deputy Director for Non-Residential Development appears to take the view that the "decadent" area clause is only of concern in cases where the right of eminent domain is to be used. He contends that the reason for using 121A is to stabilize the developer's tax burden in return for the City's right to limit his profits to 6%. His concept of 121A may be influenced by his work on Park Plaza where the magnitude of the developer's profits is an important issue.

The new Stone and Webster Building will also be built by a 121A Corporation. In order to retain this large concern on the City's tax roles, and thereby keep a large number of jobs in Boston, the development was granted 121A status, but unlike the earlier 121A Corporations, they have to pay an increased amount of taxes every five years.

It is worth noting that the commercial use of 121A has remained politically motivated, and changes with the changing needs and political pressures of Boston. In one case, 121A was a mechanism for completing the massive Government Center project (1 Beacon Street), while in another it was used to control the developer's profits (Park Plaza), and in a third it was used to facilitate the retention of jobs in Boston (Stone and Webster).

At the State level, the use of 121A for commercial purposes is much less political. This may be because the power is by no means as concentrated. The state and municipality share the approval power, whereas in Boston the BRA and the Mayor hold this power exclusively. All projects are carefully screened to ensure that they are being built in one of the kinds of areas specified by the Statute. DCA apparently views 121A as a "tax concession" to encourage certain objectives in carefully defined circumstances and, accordingly, administers the law as a simple matter of routine devoid of intense political pressures. The project either fits the criteria established by the Statute or it doesn't. This may be true because commercial properties only represent 12% of the dollar volume of the state's 121A projects, whereas the figure for Boston is approximately 75%. With the Revere Beach Project on the horizon, this might well change.

The obvious question arises as to the magnitude of the tax advantages under this Statute. The Prudential Center serves as an illustration. The estimated cost to the developer of the Prudential Center was \$190 million. Using the present Boston tax rate of \$196.70/thousand dollars of evaluation, one gets a tax of \$37.4 million. Using the Massachusetts Taxpayers Foundation, Inc.'s

full value rate of \$161.39/thousand, one gets a tax of \$30.6 million. Using the 100% valuation proposed by some sources of \$85/thousand, we get a tax of \$16.2 million. In 1972 the entire tax bill for all 121A projects was \$5.3 million.

As was shown earlier, most major commercial developments obtain from the assessor an agreement which is based on the same percentage of gross income method as 121A Corporations. In the first year of operation they would not be paying much more than a 121A Corporation, but since all agreements now ride with the tax rate, as time progresses a 121A development will be paying much less. Even this might not hold true for long because the BRA is building in escalation clauses in their most recent 121A contracts. As of yet, the state is not doing this. Even given this, 121A Corporations do seem to do better than those Corporations who go the normal route. The Springfield Planning Department gives us these statistics for 121A Corporations in that city. The 121A Corporations bring \$318,855 in tax revenue while the buildings they replaced brought in \$77,611. If the new structures had been built without 121A's help, they would have brought in \$510,089 in tax dollars, if they had been built.



Hiring the Unemployed

Statutory Scheme

A Corporation which is primarily engaged in either manufacturing or research and development is eligible for a tax credit against the amount of excise tax it owes the State for each employee fitting certain requirements it hires over a specified minimum each year.

The amount of the credit is \$500 per eligible employee hired over the specified minimum.

In order to be eligible, an employee must be full time, which, for purposes of this statute, means the employee must have earned at least the minimum wages on which an employer is required to make contributions by the Unemployment Compensation Statute. In addition, the employee must, immediately prior to being hired, have been,

1. Receiving Veterans benefits, General Assistance or Aid to Dependent Children; or
2. Receiving unemployment compensation for involuntary unemployment but not from having been laid off by the present employer; or
3. Receiving training in a Manpower program certified by the Secretary of Manpower Affairs or
4. Receiving training in a Manpower program certified by the Urban Job Incentive Bureau; or
5. Receiving training in a program operated by the Department of Corrections for persons in its custody.

An employee is also eligible if he has not received any of these benefits or training, if, during the tax year, he completes or is enrolled in a company-run manpower program certified by the Secretary of Manpower Affairs.

There is stipulated a three percent annual growth rate in the number of employees hired by a firm. An employer may claim a credit for each eligible new employee hired in excess of the three percent increase in the number of persons employed over the previous year.

This credit may be taken in addition to the investment credit. However, this credit and the Urban Job Incentive income deduction cannot both be claimed; the employer must claim one or the other.

The job creation credit described here is effective for five years, terminating on December 31, 1978.

Analysis

This tax credit will provide strong encouragement to Manpower programs and private industry to work more closely together. For the programs, teaching what industry needs will now measurably increase the chances for successful placements. For industry, placements may mean tax credits. Encouraging this cooperation may help reduce the number of places around the State where there are a lot of people looking for jobs at the same time that there are a lot of jobs looking for people.

The law does not deal explicitly with the question of whether the credit for hiring eligible new employees can be claimed only for those eligible new employees who are hired chronologically after the necessary three percent, or whether all eligible new employees which are in excess of the required three percent can be counted toward the credit. The latter reading appears to be the correct one, but there may be a hidden incentive for the industry to delay hiring the eligible new employees until the initial three percent are hired. For those in the eligible categories this may mean at least delay in finding employment and, possibly, greater difficulty in finding a job at all, if a lot of companies aren't increasing their workforce by at least three percent. This is not to predict these problems, but to suggest alertness to their possible development.

Note that to be eligible, an employer must be a Corporation and must be engaged primarily in manufacturing or research and development.

Urban Job Tax Incentives

Statutory Scheme

A business facility issued a certificate of eligibility by the Urban Job Incentive Bureau (see the section on State Agencies), is eligible for a credit against the amount of the excise tax owed to the State, and for a deduction against income subject to the tax.

The amount of the excise tax credit is determined by multiplying the assessed valuation of the real estate, or that portion of it occupied by the eligible business facility, by the equalized tax rate differential of the municipality in which the facility is located and dividing that product by \$1,000.

The equalized tax rate of the municipality is the rate per thousand dollars of assessed valuation at which the municipality would levy its property tax, if all the property subject to the tax were assessed at its equalized valuation as most recently determined by the State Tax Commission. A municipality's equalized tax rate differential is the difference between that municipality's equalized tax rate and the average equalized tax rate for the State.

The amount of the deduction against income subject to the state tax is 25% of the compensation paid to those employees who live in an eligible section of poverty.



Analysis

First, a word on "equalized taxation." The State Tax Commission is required to set an equalized valuation for every municipality in the state every two years. An equalized valuation is one which establishes the fair cash of all property in the municipality which is subject to the property tax. The equalized tax rate is the rate per \$1,000 of fair cash valuation at which the municipality would levy the property tax to raise the amount currently budgeted.

It is important to understand the difference between a tax credit and a tax deduction. The amount of excise taxes owed by a Corporation is calculated by applying a percentage figure to taxable income. A tax credit is deducted from the amount of the tax owed to the state. A tax deduction is deducted from the taxable income from which the amount of tax owed is derived. Thus, a tax credit is a considerably greater incentive than a tax deduction.

An example using simplified figures will illustrate the point. Suppose the tax rate on the corporate excise tax was 10% of taxable income. Suppose further that XYZ Corporation has taxable income of \$100,000. The XYZ Corporation owes taxes of \$10,000. If the Corporation has a \$1,000 tax credit which it can claim, it will pay \$9,000 in taxes. If, on the other hand, the \$1,000 was a tax deduction, the XYZ Corporation would have had \$99,000 of taxable income and would have had to pay taxes of \$9,900.

The purpose of this excise credit is to remove any property tax differential between communities. The older, urban areas of the state generally have higher tax rates than suburban areas. This is due mainly to a declining tax base caused, in part, by businesses leaving, coupled with a rising demand for services, caused, in part, by the unemployment resulting from the business departures. The excise tax credit is designed to break into this cycle by eliminating the higher tax cost of locating in the older urban area, the idea being that the tax cost would be approximately the same if a plant was located in a city or in a suburb. The actual figures do not work out to a precise equalization, but the tax cost of locating in most older cities is appreciably reduced. Indeed, with this credit the tax cost in certain cities is lower than in many suburbs.

The income deduction likewise seeks to break into the cycle described above. The deduction seeks to provide an incentive to hire those most likely to have been left unemployed by the departing businesses and most likely to have substantial difficulty finding new employment.

Loss Carryover Provision

Statutory Scheme

The Massachusetts corporate excise tax does not allow deductions for losses sustained in other tax years except that losses from a Corporation's first five tax years may be deducted on a carryover basis.

The deduction is available to any corporation with tax liability in this State, whether a Massachusetts corporation or a foreign corporation, except that corporations owned at least 50 per cent by another corporation may not use this deduction.

The five year period during which the deduction may be used is the five years immediately following its organization. The date of organization is the start of the period, whether or not the Corporation was organized in Massachusetts.

The amount of the loss deductible in any tax year is determined by the U.S. Internal Revenue Code. So much of the Corporation's operating loss as can be carried forward under Section 172 of the Internal Revenue Code for that year is allowed as a deduction for the same year for the purposes of the Massachusetts corporate excise tax.

Analysis

A loss carryover provision such as this one is designed to assist new businesses through their most difficult period -- the first few years of their operation. Some sources estimate that as many as four out of every five new businesses fail during their first three years. Hence, this deduction should be of substantial assistance to new businesses in this State, particularly high risk, high technology ventures. A tax deduction of this kind provides an incentive for the formation of new businesses. These new businesses are a source of jobs. The deduction provides them with a form of assistance while they improve operations and, hopefully, begin to grow. This expansion is a source of more jobs.

Conducting Business In Massachusetts and at Least One Other State

Statutory Scheme

Manufacturing and research and development corporations doing business in Massachusetts and at least one other State have an incentive to increase the number of persons they employ in Massachusetts because their tax liability will not increase proportionately.

In the case of a Corporation doing business in Massachusetts and at least one other state, the Corporation's Massachusetts tax liability is determined by multiplying the Corporations' total taxable income by a fraction, the numerator of which is the ratio of the Corporation's Massachusetts sales to total corporate sales plus the ratio of the Corporation's Massachusetts property to total corporate property, plus the corporation's Massachusetts payroll to total corporate payroll, and the denominator of which is three.

Recently this formula has been adjusted in two ways. First, property leased by a Corporation is now counted in total corporate property as well as in the Corporation's Massachusetts property.

Second, for corporations engaged primarily in manufacturing or research and development, their Massachusetts payrolls in relation to their total payrolls, will be the lesser of a) the actual amount paid; or b) the greater of the amount paid in the 1972 tax year increased by five per cent for each year thereafter, or 75 per cent of the actual amount paid during the tax year. The total payroll shall include only that amount for Massachusetts as is claimed under these provisions.

Analysis

Since the apportionment formula is fairly difficult to state succinctly, it is illustrated graphically here to ensure that it is clearly understood.

Tax Liability of corporation doing business in Massachusetts and at least one other state.	Mass. Sales	Mass. Property	Mass. Payroll
Total Sales	Total Property	Total Payroll	

3

With respect to the first adjustment, it can now easily be seen that increasing total property--by including leased property in total corporate property--tends to

reduce the corporation's Massachusetts tax liability.

The second adjustment reduces the Massachusetts tax liability by making the payroll ratio a smaller number. For the sake of clarity, an example is given.

$$1972 \text{ Mass. Payroll} = \$1,000,000$$

$$1972 \text{ Total Payroll} = \$20,000,000$$

$$1972 \text{ Payroll ratio} = .05$$

$$1973 \text{ Mass. Payroll} = \$1,500,000$$

$$1973 \text{ Total Payroll} = \$21,000,000$$

$$1973 \text{ Payroll ratio} = .071$$

However, a manufacturing or research and development corporation may use either the 1973 payroll ratio or the larger of the "adjusted" ratios.

1.

$$\frac{\$1,000,000 + (.05 \times \$1,000,000)}{\$21,000,000 - (\$1,500,000 - 1,050,000)} = \frac{\$1,050,000}{\$20,550,000} =$$

$$1973 \text{ Adjusted Payroll Ratio} .051$$

The numerator here is the 1972 payroll (\$1,000,000) increased by five per cent (\$50,000) for the one additional year beyond 1972. The denominator is 1973 total payroll decreased by the amount by which the 1973 Massachusetts payroll was decreased.

2.

$$\frac{.75 \times \$1,500,000}{\$21,000 - (\$1,500,000 - \$1,125,000)} = \frac{\$1,125,000}{\$20,625,000} =$$

$$1973 \text{ Adjusted Payroll Ratio} .055$$

The numerator here is 75 per cent of the 1973 Massachusetts payroll, and the denominator is 1973 total payroll decreased by the amount by which Massachusetts payroll is decreased. In this example, a manufacturing or research and development corporation would take "adjusted" payroll ratio No. 1. The substantial tax savings thus available is obvious.

This tax savings for manufacturing and research and development corporations serves as an incentive to increase their Massachusetts payroll. This incentive is aimed not only at blue-collar production jobs, but also at high salaried executives. Because the tax liability does not rise proportionately with the increase in Massachusetts payroll, the tax advantages of increasing the number of high paid executives are proportionately greater than increasing the number of lower paid personnel. Indeed this provision was adopted in the hopes of persuading more companies to locate their home offices in Massachusetts.

Investment Credit

Statutory Scheme

A Corporation which is primarily engaged in manufacturing, research and development, agriculture or commercial fishing is eligible for a credit against the amount of excise tax which it owes the State, if it acquires or constructs tangible personal or other property.

The amount of the credit is three per cent of the cost or other basis for federal income tax purposes of the tangible property. The credit applies to property acquired or constructed in the tax year in which the credit is claimed.

This credit cannot be claimed on property which is leased, with one important exception. If an otherwise eligible Corporation enters into a lease for the use of tangible property with a Regional Business Development Corporation, or an Industrial Development Finance Authority the eligible Corporation may claim a credit. The credit will be in the amount of three per cent of the value of putting the property into use, such value being defined as the cost of the property to the Development Corporation or Financing Authority. The credit must be taken in the tax year the property is put to use, and it cannot be claimed again because of renewal of the lease, a successor lessee, a new lessee by reason of participation in consolidation or merger by the original lessee or for any other reason.

The urban job incentive excise credit and this credit cannot both be claimed; a Corporation eligible for both credits must elect one or the other.

The three per cent credit is due to expire at the end of calendar year 1978.

Analysis

Careful attention should be paid to which industries are eligible. Note also that the business must be a Corporation.

The purpose of a credit of this kind is to promote investment in capital goods, such as buildings, manufacturing equipment and transport vehicles. This creates jobs in the investing business because additional personnel will be needed to handle an increased level of activities in that business. Jobs may also be created in those businesses which provide the new capital assets, if there is enough new demand for those assets.

The central questions concerning a credit of this nature is whether the incentive is large enough to induce companies to make investments they would not otherwise have made, or whether some companies are getting a tax break for taking action they were planning to take in any case. If the latter alternative is more nearly the case, that still leaves the question of whether the companies who are eligible for the credit are being appropriately rewarded for undertaking job creating—i.e., socially useful—investment, or whether they are merely getting a windfall.

The point here is not to suggest an answer or to argue that one position is stronger than another. But it is to say that these are important policy questions which deserve fuller discussion than they have received up until now.

The Purchase and Use of Machinery

Statutory Scheme

Materials, fuel, machinery and replacement parts used in agricultural production, commercial fishing, manufacturing, broadcasting and furnishing of power are exempt from the sales tax.

Manufacturing corporations can be assessed, for purposes of the local property tax, only on their real estate and their underground wires and pipes.

Analysis

By limiting the assessment of the property tax on manufacturing corporations to real estate and wires and pipes, the effect is to exempt machinery and inventory. The "materials" referred to in the sales tax exemption is also inventory.

These exemptions are designed to encourage the purchase and use of equipment and inventory. The multiplier effects of purchasing capital equipment have already been discussed in the section on the investment credit. The multiplier effects of purchasing inventory operate in the same manner.



Industrial Waste Treatment and Air Pollution Control Facilities

Statutory Scheme

A Corporation may elect to deduct the full cost of building or rebuilding an industrial waste treatment facility or an air pollution control facility from its taxable income in determining its corporate excise tax liability.

The deductible cost includes pumping and transmitting equipment. It does not include the cost of any facilities or equipment to salvage materials which are usable for manufacturing or which are saleable. If the facility is used for salvage within ten years after a deduction is taken, the change in use must be reported to the Commissioner of Corporations and Taxation, and he may recompute the taxes for the year the deduction was taken and may assess additional taxes.

The full cost may be deducted in the tax year in which it is incurred. The facility must be depreciable under Section 167 of the U.S. Internal Revenue Code, it must be located in Massachusetts and it must be used in the Corporation's trade or business.

The facility must be certified with respect to compliance with applicable pollution laws and regulations. In the case of an industrial waste treatment facility, the certifying authority is the Director of the Division of Water Pollution Control in the Department of Natural Resources; and in the case of an air pollution control facility, the certifying authority is the Director of "the air pollution control agency in the Commonwealth."

If the deduction is elected, the Corporation may not thereafter claim depreciation for the facility, or, at least, not for so much of the cost as is taken as a deduction under these provisions. If the facility is sold, the basis for determining gain or loss is the one derived by applying straight line depreciation to the facility as if the deduction had not been elected. However, if the facility is sold within three years of its initial use, the basis is to be zero.

The deduction is available through December 31, 1979.

Analysis

This incentive is designed to assist those businesses which need to make substantial expenditures to bring themselves into compliance with state and federal environmental laws. As a practical matter, it will be of greatest significance in the older, urban areas of the State where many of the old mills and other older factories are located.

Many of these older plants cannot bring themselves into compliance without incurring major expenditures which threaten their continued financial viability. Yet it is in the older urban areas, where unemployment is already high and alternative sources of unemployment scarce, that the loss of these jobs would have the most serious effects. It is for these reasons that this measure offers badly needed assistance to a group of businesses whose continued viability is important to Massachusetts.

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